

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**DAVID CARTU, JONATHAN CARTU,
JOSHUA CARTU, RYAN MASTEN, LEEAV
PERETZ, NATI PERETZ, ALL OUT
MARKETING LIMITED, BAREIT MEDIA
LLC D/B/A SIGNALPUSH, AND ORLANDO
UNION, INC.,**

Defendants.

Case No: 1:20-CV-908-RP

[PROPOSED] ORDER

Before the Court is Plaintiff Commodity Futures Trading Commission’s (“CFTC”) Notice of Voluntary Dismissal (the “Notice”), in which it dismisses all claims against Defendants David Cartu, Joshua Cartu, and Orlando Union, Inc. (ECF No. 90.) In its Notice, the CFTC cites Federal Rule of Civil Procedure 41(a)(1)(A)(i), which allows a plaintiff to voluntarily dismiss an action without a court order by filing a notice of dismissal before the opposing party serves an answer or a motion for summary judgment. (*Id.* at 1.) Though Rule 41 speaks of dismissing an “action,” the Fifth Circuit has interpreted it to allow plaintiffs to dismiss all of their claims against individual opposing parties. *See Oswalt v. Scripto, Inc.*, 616 F.2d 191, 194–95 (5th Cir. 1980); *Plains Growers, Inc. ex rel. Florists’ Mut. Ins. Co. v. Ickes-Braun Glasshouses, Inc.*, 474 F.2d 250, 254–55 (5th Cir. 1973); *see also* 9 Charles A. Wright, et al. *Federal Practice and Procedure* § 2362 (3d ed. Aug. 2019 update). Pursuant to Federal Rule of

Civil Procedure 41(a)(1)(B), “[u]nless the notice or stipulation states otherwise, the dismissal is without prejudice.”

Accordingly, **IT IS ORDERED** that Defendants David Cartu, Joshua Cartu, and Orlando Union, Inc. are dismissed without prejudice, and the Clerk shall **TERMINATE** David Cartu, Joshua Cartu, and Orlando Union, Inc.

SIGNED on March ___, 2023.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE